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## Book Department

CAPES, WILLIAM PARR. *The Modern City and Its Government*. Pp. xv, 250. Price, \$5.00. New York: Dutton, 1922.

The author of this book is the Secretary of the New York State Conference of Mayors and Other City Officials. He has brought to its writings the fruits of long experience with municipal problems and close contact with city officials, both in his own state and elsewhere. *The Modern City and Its Government* is perhaps the best practical discussion of municipal organization which has appeared in more than a decade.

Three chapters, or about one-third of the book, are taken up with a discussion of the prevailing types of American city government—the federal, the commission and the commission-manager forms. The last two supply the most comprehensive appraisal of the results of the newer forms of city government which is available in compact form. It is the author's opinion that the newer types of organization have made three valuable contributions to the movement for good city government: the establishment of the short ballot principle, election at large for city councils, and simplification of governmental machinery. While these contributions were made by the commission and commission-manager cities they are capable of application in the traditional federal type of organization.

The author is also strongly of the opinion that citizen interest and efficient personnel are essential to good government and that these are attainable without recourse to radical changes in organization. These views are no longer original, but Mr. Capes sees signs of a strong revival of citizen interest and a tendency of officials to substitute ideals of service for "spoils" as motives in the public service. Citizen interest is making itself effective in the growing number of privately-supported bureaus of municipal research, municipal reference libraries, taxpayers' associations, and similar citizen bodies. That public officials are beginning to take their duties seriously is evidenced by the number of active organi-

zations seriously engaged in a scientific study of municipal problems. Three national organizations with these purposes now exist and leagues of municipalities are at present organized in twenty-five states. The work of such leagues in supplying city officials with the data needed to guide them in their work and to judge of the effectiveness of new and proposed methods is of primary importance, promising, as it does, to put an end to "hit or miss" methods in the administration of city problems.

The volume closes with three chapters dealing with school and financial administration. Fifteen charts illustrating typical forms of municipal organization and a classified bibliography of seven pages add considerably to its value.

LANE W. LANCASTER.

VINOGRADOFF, SIR PAUL. *Outlines of Historical Jurisprudence*. Volume One; Introduction, Tribal Law. Pp. ix, 428. Oxford University Press, 1920.

The study of law is often regarded as a highly specialized study, only remotely related to other intellectual pursuits, and therefore best pursued in cloistered Inns of Court, unconnected with the university atmosphere of an Oxford or Cambridge so unconcerned with the legal thought of the Roman world. Or, to give American color to our representation of the study of law, it is often assumed to be the mastery of an honorable trade which finds its tools in the precedents of judicial decisions, admirable in their time, but not in harmony with the actual life of today. No better corrective of this view, if it really obtains in any law school, could be found than the initial volume of Professor Vinogradoff's *Outlines of Historical Jurisprudence*.

Nearly half the volume is given to an introduction which treats of the relation of jurisprudence to other sciences. Logic is naturally first considered, and it is shown that an excess of abstract dialectics may easily pervert legal rules, an error into which French and continental jurists run more frequently than the more practica-

English lawyers. The current findings of psychology cannot but influence law and this is no less true when the field is extended to society. Social psychology blends into sociology. The same is true of political science and political economy, particularly of the former. The science of law cannot be isolated from these social sciences, for it is itself a social science and subject to every movement of opinion and to every change in social conditions.

That jurisprudence is not static but subject to periodic changes is shown by the professor's successive chapters upon the rationalists, like Bentham, the nationalists, like Savigny, and the evolutionists, like von Ihering. Each school was the embodiment of the dominant spirit of the period, and each made contribution to a progressive jurisprudence.

After evaluating the legalistic tendencies of the present age the author delves into the remote past for the roots of historical jurisprudence. This he does by the aid of anthropological inquiries collected from all parts of the world. His scheme for the series involves the systematic treatment of the following subjects: 1. Origin in totemistic society, 2. Tribal law, 3. Civic law, 4. Medieval law in its combination as canon and feudal law, 5. Individualistic jurisprudence, and 6. Beginnings of socialistic jurisprudence. The sub-title of the present volume is "Tribal Law" though several chapters belong to the first division of his scheme.

It is strange enough to begin historical jurisprudence with the selection of mates in a period long antedating history. Yet the *patria potestas* of the Roman law is a development from still earlier custom and is the better understood when seen as a stage in the progress of civilization. Out of the patriarchal household grew the joint family, with its expansion into the clan and the tribe. The tribe was a confederation of related clans. Between these clans there was arbitration, just as now international law is a body of rules created by agreement. Criminal and civil procedure began to develop at a time when the element of public compulsion was absent. As in international law today so in tribal law there were incomplete sanctions. Self-

help was recognized but regulated. When private execution failed the public sanction or outlawry was resorted to. Closely connected with the patriarchal household and the joint family were succession and inheritance. Of chattels in pre-Christian time the dead man's share was buried or burned with the body, but later the Church was intrusted with this share to spend for the good of his soul. The remaining chattels were capable of equitable division, but a farm was regarded as an organic entity to which personal sharing was not appropriate. Indeed land tenure had its origin in tribal ownership rather than in strictly personal ownership. This tribal ownership developed into communal, out of which grew the open-field system, once universal in Europe, just as this in time was displaced by a more scientific agriculture and more individualistic legal theory. The Roman civil law, German private law, and the English common law all find the key to their understanding in the tribal law so different from the ideal creations of Bentham and Austin.

This work of a cosmopolitan scholar marks a distinct stage of progress from the pioneer work of Professor Main, *Ancient Law*, but it lacks the charm of that classic.

C. H. MAXSON.

FINER, HERMAN. *Foreign Governments at Work*. Pp. 84. Oxford University Press, 1921.

This brief booklet of eighty-four pages aims to give for study classes a summary of the outstanding features of the government of France, Germany and the United States. The author holds that institutions are alike the world over, mainly through imitation. The Declaration of Independence and the movement for political rights which followed, swept the world; everywhere parliaments were formed. So also the great drive for economic democracy has already spread over wide sections in Whitley Councils, Works' Councils and Soviets. With these two standards of political and economic democracy in mind, the author examines briefly the government of each of the countries named. Although it seems well nigh impossible to do so in eighty